



DEVELOPMENT SERVICES DEPARTMENT  
PLANNING & ZONING DIVISION

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6591 ORANGE DRIVE • DAVIE, FLORIDA 33314-3399  
PHONE: 954.797.1103 • FAX: 954.797.1204 • WWW.DAVIE-FL.GOV

**MEMORANDUM**

PZ 11-6-05

**TO:** Town Council Members and Mayor

**THRU:** Ken Cohen, Acting Town Administrator  
Mark A. Kutney, AICP, Development Services Director  
Bruce Dell, Planning & Zoning Manager

**FROM:** David M. Abramson, Planner II

**DATE:** November 8, 2005

**RE:** V 7-2-05 / 05-572 / Kim & Deborah Nelson

**REQUEST:**

Staff is requesting that the above referenced item, currently scheduled on the November 16, 2005 Town Council meeting be tabled to the January 4, 2006 meeting. This is the petitioner's first (1) request for deferral.

**JUSTIFICATION:**

Due to the Holidays in October and Hurricane Wilma, the petitioner requests to amend the Planning and Zoning Board, as well as Town Council Meeting dates.

# TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101  
Prepared by: David M. Abramson, Planner II

**SUBJECT:** Quasi Judicial Hearing: Variance, V 7-2-05 / 05-572 / Kim & Deborah Nelson / Generally located on the north side of Southwest 16<sup>th</sup> Court between Southwest 130<sup>th</sup> and 132<sup>nd</sup> Avenue

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** V 7-2-05 / 05-572 / Kim & Deborah Nelson

## **REPORT IN BRIEF:**

The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 35' foot side setback from the property line, to reduce the minimum to a 20.8' foot side setback from the property line in the AG zoning district.

The subject site is a .83 acres (approx. 36,266 square feet) parcel of land approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth, located on the west side of Gulfstream Way and approximately 500' north of Laurel Road. The land use for parcels adjacent to the north, south, east, and west of the subject site are all residential 1 dwelling unit per acre.

The petitioners are proposing to build a garage addition to the existing residential home approximately one thousand twenty (1,020) square feet along the southeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new garage structural addition as proposed would encroach into the original building side setbacks.

According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical AG, Agricultural Districts are required to provide a 35' side setback. This variance would reduce the required 35' side setback by 14.2' feet.

The criteria for approval of a variance require that the petitioners request show no evidence of self-created hardship. In the case of Mr. and Mrs. Nelson, the property is approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth. In review of the survey and residential expansion plan, it proposes a garage placed just outside the southeastern existing exterior wall. The current distance from the southeastern exterior wall to the property line is approximately 37.8'. The required 35' side setback would only permit 2.8'

of structure width for the proposed garage. Thus, staff concludes that this proposed addition could not be accommodated without the approval of a variance.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a 35' side-building setback.

The adopted RLI provides for a side setback dimension of 35' creating a 70' foot separation between all new structures. Granting a variance to allow a 20.8' side-building setback from the property line would result in approximately 230' foot separation between the two structures.

Thus, a side setback reduction would only directly affect the house to the south, would not harm the existing open space, and would be consistent with the original setback approved for the community.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** N/A

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

**Attachment(s):** Planning Report, Justification, Survey, Expansion Plan, Future Land Use Plan Map, Zoning and Aerial Map

**Application:** V 7-2-05 / 05-572 / Nelson  
**Exhibit "A"**

**Revisions:**  
**Original Report Date:** 10/2/05

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning and Zoning Division**  
*Staff Report and Recommendation*

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**Applicant Information**

**Owner / Petitioner:**

**Name:** Kim & Deborah Nelson  
**Address:** 3778 Gulfstream Way  
**City:** Davie, Florida 33328  
**Phone:** (954) 557-6904

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**Background Information**

**Date of Notification:** October 5, 2005  
**Number of Notifications:** 85

**App. History:** None

**App. Request:** Variance **FROM:** Section 12-287 (B) of the Land Development Code, which requires a minimum 35' side setback from the property line. **TO:** Reduce the minimum to a 20.8' side setback from the property line.

**Address/Location:** 3778 Gulfstream Way / Generally located on the west side of Gulfstream Way and approximately 500' north of Laurel Road

**Future Land Use**

**Plan Map:** Residential 1 DU / Acre

**Existing Zoning:** AG, Agricultural District

**Existing Use:** Single-Family Residential Dwelling Unit

**Parcel Size:** .83 acres (approx. 36,266 square feet)

	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Future Land Use Plan Map Designations:</u></b>
<b>North:</b>	Single-Family Residential	Residential 1 DU / Acre
<b>South:</b>	Single-Family Residential	Residential 1 DU / Acre
<b>East:</b>	Single-Family Residential	Residential 1 DU / Acre
<b>West:</b>	Single-Family Residential	Residential 1 DU / Acre

**Surrounding Zoning:**

**North:** A-1, Agricultural District

**South:** A-1, Agricultural District

**East:** A-1, Agricultural District

**West:** A-1, Agricultural District

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## **Zoning History**

**Related Zoning History:** Records indicate that the existing Future Land Use Plan Map designation and Zoning classification were in place at the time of annexation.

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## **Applicable Codes and Ordinances**

§12-309(B)(1) of the Land Development Code, review for variances.

### **DIVISION 3. RURAL LIFESTYLE REGULATIONS**

§12-287 (A) & (B) of the Land Development Code, For the AG zoning district, the minimum lot area shall be 43,560 square feet, the minimum lot frontage is 150', and maximum building coverage is 20%. The building setbacks shall be as follows for the AG zoning district: front 40'-50', side 35', rear 35', and 35' maximum height.

Town Council approved the Rural Lifestyle Regulations on October 16, 2002. At that time, Laurel Oaks North acquired these regulations for all new structures, modifications, and/or additions.

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## **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. This planning area includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 17 -*

*Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses, *Land Use Compatibility and Community Appearance, Policy 17-7:* Adopted land development regulations shall continue to set forth setback or separation regulations landscaping requirements, and minimum open space criteria to enhance living and working environments.

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## Application Details

The petitioners are requesting a variance from Section 12-287 (B) of the Land Development Code, which requires a minimum 35' foot side setback from the property line, to reduce the minimum to a 20.8' foot side setback from the property line in the AG zoning district.

The subject site is a .83 acres (approx. 36,266 square feet) parcel of land approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth, located on the west side of Gulfstream Way and approximately 500' north of Laurel Road. The land use for parcels adjacent to the north, south, east, and west of the subject site are all residential 1 dwelling unit per acre.

The petitioners are proposing to build a garage addition to the existing residential home approximately one thousand twenty (1,020) square feet along the southeastern portion of the existing house. The original building side setbacks for this property were twenty-five (25) feet. The new garage structural addition as proposed would encroach into the original building side setbacks.

According to § 12-81(A) of the Land Development Code, Table of Conventional Single-Family Development Standards, typical AG, Agricultural Districts are required to provide a 35' side setback. This variance would reduce the required 35' side setback by 14.2' feet.

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## Findings of Fact

### **Variances:**

#### **Section 12-309(B) (1):**

**The following findings of facts apply to the variance request:**

- (a) There are no special circumstances or conditions applying to the land or building for which the variance is sought;

*The .83 acres (approx. 36,266 square feet) parcel can support an addition to the existing structure that does not require a variance. However, the garage addition is logically placed along the southeastern portion of the existing house, approximately 250' from the neighboring house.*

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

*The parcel can continue its development rights and can be used in accordance with the AG, Agricultural District without a variance.*

and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought;

*The parcel can be reasonably used without a variance. The parcel can support an addition in other locations that would not require a variance. However, due to the existing residential layout, the most sensible place to locate an addition would be on along the southeastern portion of the home.*

and that alleged hardship is self-created by any person having an interest in the property.

*The need for a variance is created by the owner's desire for the expansion to be located on the southeastern portion of the existing two-story residential building.*

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

*The applicant can achieve reasonable use of the land without a variance, and as such the variance is not the minimum needed.*

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side-building setback to be reduced from 35' to 20.8' should not be detrimental to the adjacent properties, as the next closest structure is approximately 250' feet from the addition.*

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### **Staff Analysis**

The criteria for approval of a variance require that the petitioners request show no evidence of self-created hardship. In the case of Mr. and Mrs. Nelson, the property is approximately one-hundred forty (140) feet in width by two hundred fifty-one (251) feet in depth. In review of the survey and residential expansion plan, it proposes a garage placed just outside the southeastern existing exterior wall. The current distance from the southeastern exterior wall to the property line is approximately 37.8'. The required 35' side setback would only permit 2.8' of structure width for the proposed garage. Thus, staff concludes that this proposed addition could not be accommodated without the approval of a variance.

Residential homes approved and/or built prior to the adoption of the Rural Lifestyle Initiative (RLI) regulations had a 35' side-building setback.

The adopted RLI provides for a side setback dimension of 35' creating a 70' foot separation between all new structures. Granting a variance to allow a 20.8' side-building setback from the property line would result in approximately 230' foot separation between the two structures.

Thus, a side setback reduction would only directly affect the house to the south, would not harm the existing open space, and would be consistent with the original setback approved for the community.

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**Staff Recommendation**

Staff finds the subject application complete and suitable for transmittal to Town Council and the Planning and Zoning Board for further consideration.

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**Planning and Zoning Board Recommendation**

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**Town Council Action**

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**Exhibits**

- 1. Justification
- 2. Survey
- 3. Expansion Plan
- 4. Future Land Use Plan Map
- 5. Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

**Exhibit 1 (*Justification Letter*)**

To: Chris Gratz (Chris\_Gratz@davie-Fl.gov)  
954-797-1103 (office), 954-797-1204 (Fax)  
Town of Davie

Dear Mr. Grantz,

We live in Long Lake Ranches and are planning to build on an addition/garage to the south side of our house, which is a Renoir model (lot 104). I had spoken with you a few months ago regarding a request for variance. You explained we needed approval from our nearest affected neighbor and an association approval. We have already received a conditional approval from the HOA/Miami Management (see attached letter). The final approval will be based on submitted plans, but the actual request to build into the set back has been granted. We have also spoken to our nearest affected neighbor which is to our south (Rudy & Myrna Renaud, 10477 Laurel Rd) and have received their complete approval.

In order to achieve this, we are requesting a variance to build into the south side setback about 4.2' based on the original 25' setback in effect when we purchased the home (14.2' based current set back of 35'). This would reduce the current set back to 20.2'. Addition/garage will be 17' wide by 52'-60' long. Please note, the garage will be added to the side of the house where the existing garages are already located. This measurement is necessary in order for there to be a usable internal width for the vehicles that are to be contained within.

Note that our neighbor to our south (Rudy) has his back yard abutting our side yard. With the combined distance of our wide side yard & our neighbors' extra long back yard, our request to extend into the setback area will be far less visually noticeable than it might be if the houses were simply side-by-side.

Furthermore, our neighbor located at 10457 Laurel Rd (Frank & Sabastiana Tobia) who also own a Renoir model, have already added such a garage structure to their home. This addition is very appealing to the eye & has added significant value to his beautiful home & the homes in our wonderful neighborhood. As our neighbor Frank has done, we intended to use a very similar design that complements the design of the house to the point that it will look as if it were an upgrade option offered by G.L. Homes themselves.

Thank you for your consideration of our variance request. We look forward to hearing from you soon.

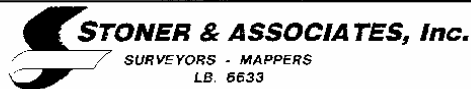
Sincerely,

Kim & Deborah Nelson  
(Long Lake Ranches, lot 104)

Kim & Deborah Nelson 3778 Gulfstream Way, Davie Fl. 33328  
954-424-4422 (Home), 954-916-1608 (Fax) email [kdnelson@bellsouth.net](mailto:kdnelson@bellsouth.net)  
Contact: Kim's (cell) 954-557-6904  
(Lot 104, Folio # 504119131040, Plat Book 171, Pg 151)

**Exhibit 2 (Survey)**

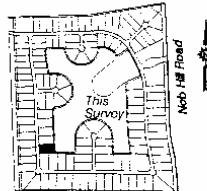
4341 SW 62nd Avenue  
Davie, Florida 33314



Tel. (954) 585-0997  
Fax (954) 585-3927

## SKETCH OF BOUNDARY SURVEY FOR G.L. HOMES LOT 104

LONG LAKE RANCHES PLAT ONE  
3778 GULFSTREAM WAY  
DAVIE, FLORIDA 33328



Location Map

- LEGEND:**
- CONCRETE BLOCK STRUCTURE
  - CENTERLINE
  - LICENSED BUSINESS
  - ARC
  - RADIUS
  - CHORD BEARING
  - CHORD BEARING
  - PLAT BOOK
  - POINT OF COMMENCEMENT
  - POINT OF BEGINNING
  - BROWARD COUNTY RECORDS
  - OFFICIAL RECORDS BOOK
  - SQUARE FOOT
  - A/C
  - PROPOSED SURFACE ELEVATION
  - SURFACE ELEVATION
  - CONCRETE
  - NON-VEHICULAR ACCESS LINE
  - MANHOLE
  - TIRE HYDRANT
  - TELEPHONE BOX
  - METAL LIGHT POLE
  - WATER METER
  - WATER VALVE
  - SEWER CLEANOUT
  - CABLE TELEVISION
  - ELECTRIC HAND HOLE BOX
  - CATCH BASIN
  - WOOD FENCE
  - SET 5/8" IRON ROD L.B. 6633
  - FOUND 5/8" IRON ROD L.B. 6633
  - SET 5/8" IRON ROD L.B. 6633
  - FOUND 5/8" IRON ROD L.B. 6633
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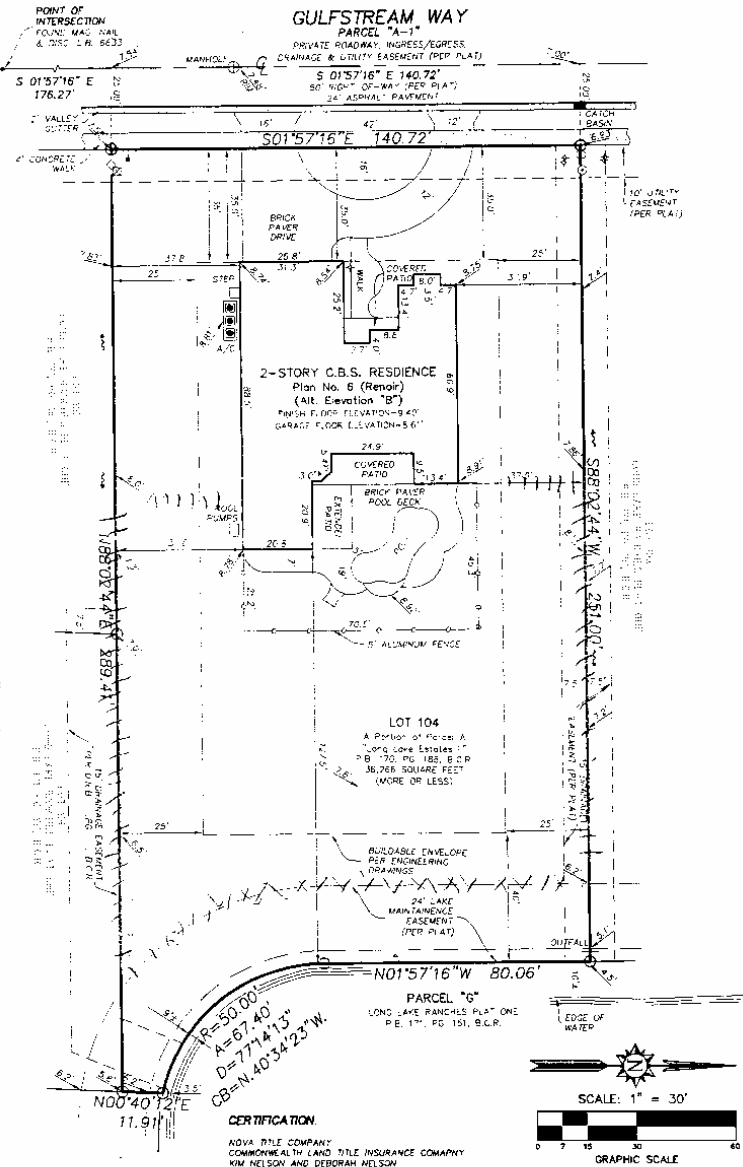
### LEGAL DESCRIPTION: LOT 104

LOT 104, LONG LAKE RANCHES PLAT ONE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 171, PAGE 151, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LAND SITUATE WITHIN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, CONTAINING 36,266 SQUARE FEET OR 0.833 ACRES, MORE OR LESS.

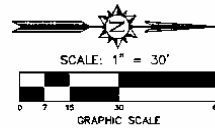
### SURVEY NOTES

1. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD BY STONER & ASSOCIATES, INC.
2. UNDERGROUND FEATURES SUCH AS: ENCROACHMENTS, UTILITIES, FOUNDATIONS, PIPELINES AND CABLES WERE NOT LOCATED OR SHOWN HEREON. THIS SURVEY IS LIMITED TO ABOVEGROUND FEATURES ONLY.
3. THIS SURVEY IS "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER".
4. THIS SURVEY REPRESENTS A BOUNDARY SURVEY AS DEFINED IN THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING AND MAPPING IN CHAPTER 61G17-8, FLORIDA ADMINISTRATIVE CODE.
5. THE SYMBOLS REFLECTED IN THE LEGEND AND ON THIS SURVEY MAY HAVE BEEN ENLARGED FOR CLARITY. THE SYMBOLS HAVE BEEN PLOTTED AT THE CENTER OF THE FIELD LOCATION AND MAY NOT REPRESENT THE ACTUAL SHAPE OF THE FEATURE(S) IT REPRESENTS.
6. THE PROPERTY SHOWN HEREON IS LOCATED WITHIN FLOOD ZONE X-1-B AS SHOWN ON FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 120033-0305, EFFECTIVE DATE AUGUST 16, 1992.
7. THE BEARINGS SHOWN HEREON ARE REFERENCED TO S 80°24'57"W ALONG THE NORTH LINE OF LONG LAKE RANCHES PLAT ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 171, PAGE 151 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
8. ELEVATIONS SHOWN HEREON ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 FROM THE BROWARD COUNTY ENGINEERING DEPARTMENT BENCHMARK DESCRIBED AS FOLLOWS: SET X-CUT ON EAST RIM OF STORM MANHOLE, EAST SIDE OF HORNELL ROAD IN FRONT OF ENTRANCE TO "TREE TOPS" PARK, 35' EAST OF CENTERLINE OF HORNELL ROAD, B.M. 8-21-2000, NOTE: X-CUT ON THE NORTH EDGE OF RIM, ELEVATION = 7.34'.
9. OWNERSHIP OF FENCES WAS NOT DETERMINED.



### CERTIFICATION

ADVA TITLE COMPANY  
COMMONWEALTH LAND TITLE INSURANCE COMPANY  
KIM NELSON AND DEBORAH NELSON



### CERTIFICATE

THIS IS TO CERTIFY THAT I HAVE PERSONALLY SURVEYED THE PROPERTY DESCRIBED AND SHOWN HEREON AND HAVE SET OR FOUND MONUMENTS AS INDICATED ON THIS SKETCH AND THAT SAID ABOVE GROUND SURVEY AND SKETCH ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-8, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 410.027, FLORIDA STATUTES.

NO.	DATE	DESCRIPTION	BY	CHK
1	4/17/03	Field Survey (Refer to Plot)	THW	
2	4/17/03	Advise University per letter	THW	
3	4/17/03	Adv. Proposed 30'	THW	
4	4/17/03	Changes to Plot	THW	
5	4/17/03	Changes to wall and Pool Deck per Landscape Arch	THW	
6	4/17/03	Ownership Survey	THW	
7	4/17/03	Owner's Map	THW	
8	4/17/03	Drawn by	THW	
9	4/17/03	Lot 104	THW	

RICHARD G. CRAWFORD, JR.

PROFESSIONAL SURVEYOR AND MAPPER, No. 5277 - STATE OF FLORIDA

DATE OF FIELD SURVEY: 4/8/03

DATE OF PLOT: 4/8/03

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DATE OF FIELD SURVEY: 4/8/03

DATE OF PLOT: 4/8/03

### SEAL

NOT VALID UNLESS  
SEALED HERE WITH  
AN EMBOSSED  
SURVEYOR'S SEAL

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Exhibit 3 (Expansion Plan)

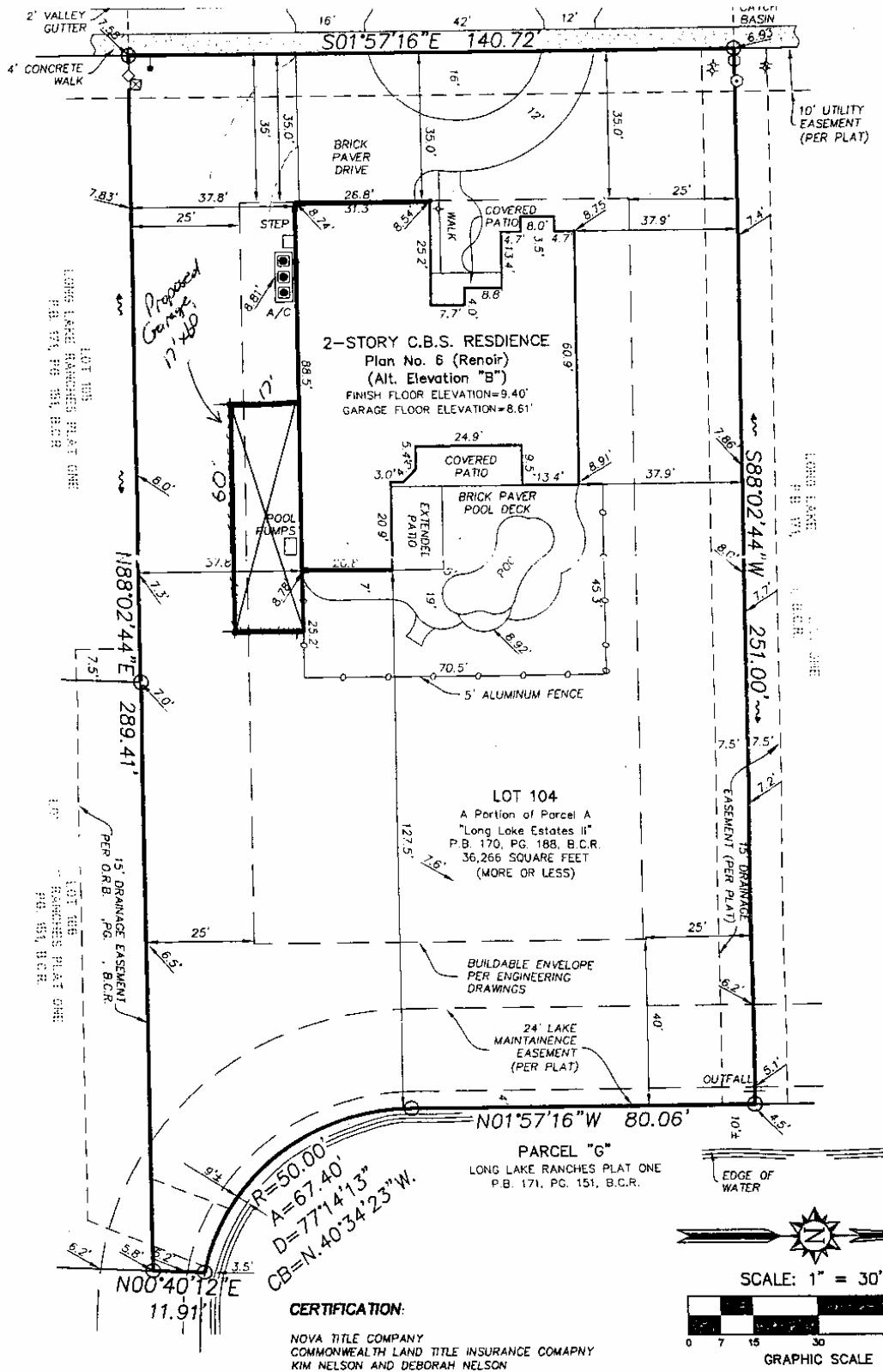
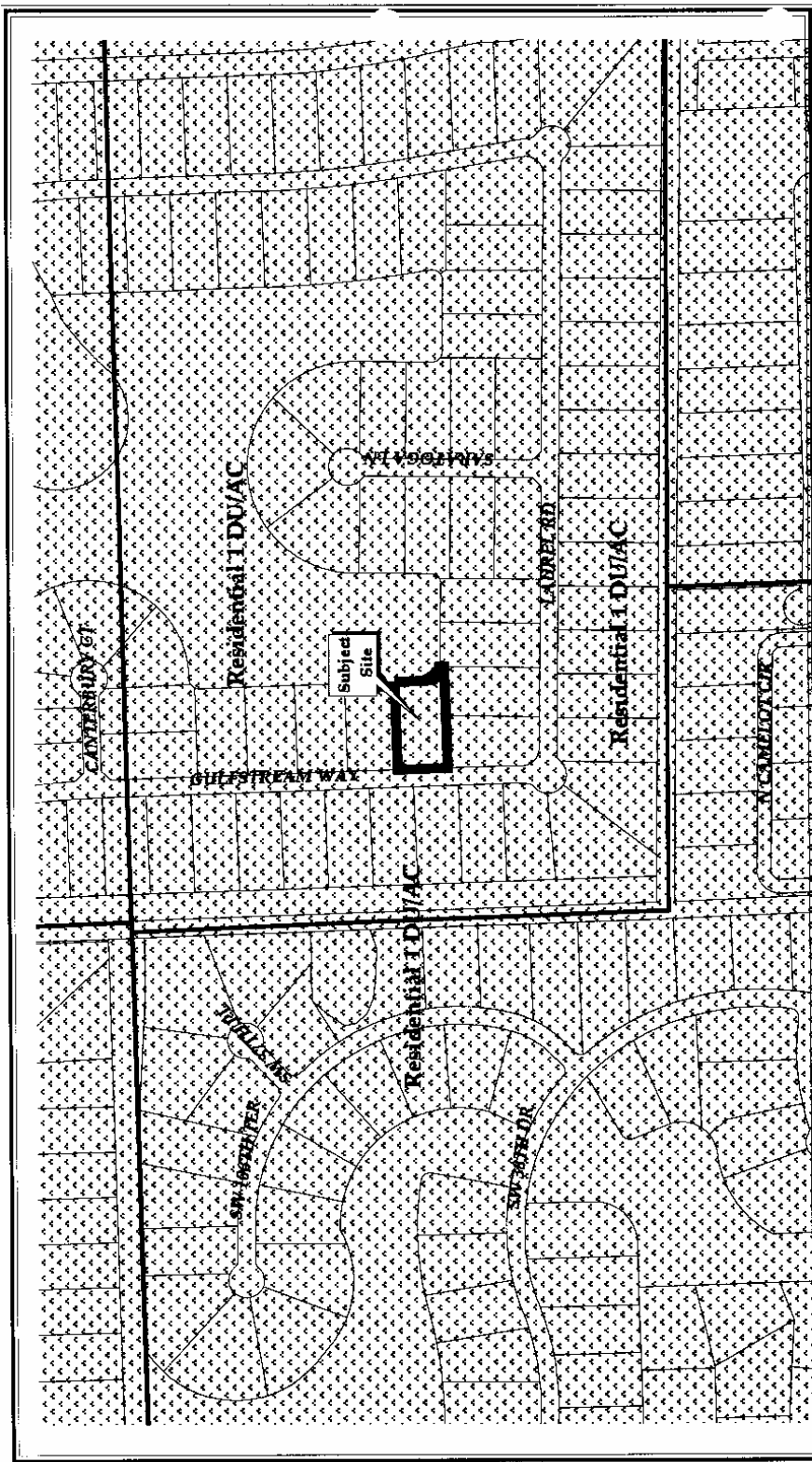


Exhibit 4 (Future Land Use Map)



Variance Application  
V 7-2-05 / Nelson  
Future Land Use Plan Map

Prepared By: D.M.A.  
Date Prepared: 9/13/05



The Town of Davie  
Development Service Department  
Planning & Zoning Division

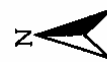
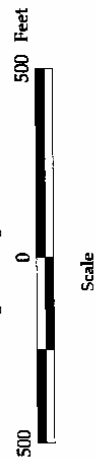


Exhibit 5 (Aerial, Zoning, and Subject Site Map)



Variance Application  
V 7-2-05 / Nelson  
Aerial, Zoning, and Subject Site Map

Prepared By: D.M.A.  
Date Prepared: 9/13/05



The Town of Davie  
Development Service Department  
Planning & Zoning Division

